

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT



BOARD OF APPEALS

Thomas W. Keech
Chairman

Hazel A. Warnick
Associate Member

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033

William Donald Schaefer, Governor
J. Randall Evans, Secretary

Decision No.: 906 - BH - 87
Date: Dec. 24, 1987
Claimant: Freddie B. Banks
Appeal No.: 8702851
S. S. No.:
Employer: Adams-Burch, Inc.
ATTN: Dan M. Blaylock, Owner
L.O. No.: 7
Appellant: EMPLOYER

Issue: Whether the claimant was discharged for gross misconduct or misconduct, connected with the work, within the meaning of Section 6(b) or 6(c) of the law.

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

January 23, 1988

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

—APPEARANCES—

FOR THE CLAIMANT:

Claimant not present

FOR THE EMPLOYER:

Ted Litwin -
Attorney
Dan Blaylock -
Owner
Barry Geryz

EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant was employed as a driver for the Adams-Burch company, the employer in this case, from 1980 until January 15, 1987. His last pay rate was \$8.70 per hour.

The employer is in the restaurant supply business. The claimant's duties entailed driving the delivery truck and delivering supplies to various restaurant customers. In January of 1987, the claimant incurred a \$15.00 debt to one of the customers. This was a personal debt derived from a bet on a football game. The claimant paid off the debt by misappropriating six of the employer's knives and exchanging them with the customer in order to cancel his personal debt. (The customer cooperated only because he had been asked to do so by the employer if he was every approached in this manner by the claimant.)

CONCLUSIONS OF LAW

The deliberate misappropriation of property belonging to the employer is clearly a deliberate violation of employment standards showing a gross indifference to the employer's interest. This is gross misconduct within the meaning of Section 6(b) of the Maryland Unemployment Insurance Law.

DECISION

The claimant was discharged for gross misconduct, connected with his work, within the meaning of Section 6(b) of the law. He is disqualified from receiving benefits from the week beginning January 11, 1987 and until the claimant becomes reemployed, earns at least ten times his weekly benefit amount (\$1,950.00) and thereafter becomes unemployed through no fault of his own.

The decision of the Hearing Examiner is reversed.

Thomas W. Keech

Chairman

Loyal A. Warrick

Associate Member

K:W

kmb

DATE OF HEARING: November 10, 1987

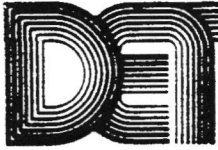
COPIES MAILED TO:

CLAIMANT

EMPLOYER

Ted Litwin, Esquire

UNEMPLOYMENT INSURANCE - COLLEGE PARK



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301) 383-5040

STATE OF MARYLAND
William Donald Schaefer
Governor

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK

Associate Member:

SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

-DECISION-

Date Mailed: 5/15/87

Claimant: Freddie B. Banks

Appeal No.: 8702851

S. S. No.:

Employer: Adams Burch, Incorporated

L.O. No.: 07

Appellant: Claimant

Issue: Whether the claimant was discharged for gross misconduct connected with the work under Section 6 (b) of the Law.

- NOTICE OF RIGHT OF FURTHER APPEAL -

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE. OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET. BALTIMORE. MARYLAND 21201. EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON June 1, 1987

- APPEARANCES -

FOR THE CLAIMANT

Present

FOR THE EMPLOYER.

Represented by Dan
Blaylock, Owner; and
Gregg Brunnhuber,
Automatic Data
Processing

FINDINGS OF FACT

The claimant was employed from May, 1980 as a delivery driver at a Pay rate of \$8.70 an hour for full-time employment. On January 14, 1987, the claimant was discharged for selling company merchandise to one of the employer's customers. The employer, in investigating the allegation, became convinced of the truth of the charges. The claimant denied the allegation when they were made to him and continued to do so as of the date of this hearing. It is found as fact, based on the evidence presented,

that the claimant did not commit the acts alleged.

CONCLUSIONS OF LAW

It is held that the claimant was discharged by decision of the employer under circumstances that do not constitute misconduct connected with the work within the meaning of Section 6 (c) of (b) of the Maryland Unemployment Insurance Law.

DECISION

The claimant was discharged, but not for misconduct connected with the work, within the meaning of Section 6 of the Maryland Unemployment Insurance Law. No disqualification is imposed, based on his separation from employment with Adams Burch, Incorporated. The claimant may contact the local office concerning the other eligibility requirements of the Law.

The determination of the Claims Examiner is reversed.



P. J. Mackett
HEARING EXAMINER

DATE OF HEARING - 4/8/87
cd
1878/Sullivan

COPIES MAILED ON 5/15/87 TO:

Claimant
Employer
Unemployment Insurance - College Park - (MABS)

Automatic Data Processing
ATTN: Gregg Brunnhuber
Joppa Road @ Mylander Lane
Towson, MD 21204